

CONCORD TOWNSHIP BOARD OF ZONING APPEALS
LAKE COUNTY, OHIO
REGULAR MEETING

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

March 8, 2017
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

Ivan Valentic, Chairman
Blair Hamilton
Chris Jarrell
Francis Sweeney, Jr.
Brandon Dynes

Also Present:

Heather Freeman, Zoning Director/Zoning Inspector
Sydney Martis, Planner/Assistant Zoning Inspector
Stephanie Landgraf, Esq., Legal Counsel

Melton Reporting
11668 Girdled Road
Concord, Ohio 44077
(440) 946-1350

1 7:01 p.m.

2 CHAIRMAN VALENTIC: Good evening. The Board of
3 Zoning Appeals for March 8, 2017, is now in session. I would
4 like to introduce my Board. To my left is Skip Sweeney and
5 Brandon Dynes. I am Ivan Valentic. To my right is Chris
6 Jarrell and Blair Hamilton. To my far right is Heather
7 Freeman, our township Zoning Inspector.

8 Under the advice of counsel, we ask that anyone
9 speaking tonight must be sworn in. If you please -- If you
10 plan on speaking, please stand up and raise your right hand.

11 (Whereupon, the speakers were sworn en masse.)

12 CHAIRMAN VALENTIC: Please be seated. I am falling
13 apart already. Be patient tonight. When presenting your case
14 or commenting, please come to the microphone and state your
15 name and address.

16 Heather, were the legal notices given in a timely
17 manner?

18 MS. FREEMAN: Yes, they were.

19 CHAIRMAN VALENTIC: Thank you. Tonight we have two
20 appeals, one is a continuation from last month. A three-vote
21 majority is required to either approve or deny your appeal. If
22 your request is denied, you have the right to file an appeal.

23 I am going to reopen the meeting from last month.

24 MS. FREEMAN: The hearing.

25 CHAIRMAN VALENTIC: The hearing -- I am sorry -- as a
26 continuation. We are going to reopen the hearing from last
27 month for Appeal Number 0117-1084, Mr. Dave Hopkins, of
28 Paradise Pools, is requesting a variance for the property
29 located at 11447 Viceroy Street, and being Permanent Parcel
30 Number 08-A-012-J-00-076-0, to construct an in-ground pool and

1 concrete patio, along with related soil-disturbing activities,
2 including grading and filling, within the riparian setback,
3 which is prohibited in Section 17.07(A) of the Zoning
4 Resolution.

5 Mr. Hopkins, can you please come up?

6 MR. HOPKINS: Let me give this to you. This kind of
7 talks about everything that we had. You already have the site
8 plan, from what I understand, and you have the letter, I am
9 pretty sure, I think Heather said, Lake County Engineering.
10 And then I put together something that, kind of, pinpoints what
11 we had talked about and I guess I will let you look at it and
12 then you tell me when you want me to talk. You tell me if you
13 want to ask question, what you want to do.

14 CHAIRMAN VALENTIC: Just so it's clear for the
15 record, this is the same site plan? This is not a new plan?

16 MR. HOPKINS: That's a new site plan.

17 CHAIRMAN VALENTIC: Is this different than the one
18 that was in our packet that was delivered?

19 MR. HOPKINS: That you just received?

20 CHAIRMAN VALENTIC: Yeah.

21 MR. HOPKINS: No, it's the same one.

22 CHAIRMAN VALENTIC: Okay.

23 MR. HOPKINS: It's the same one, yeah, you are right.

24 CHAIRMAN VALENTIC: I wanted to make sure for the
25 record.

26 MR. HOPKINS: It's the same one, yes, sir.

27 CHAIRMAN VALENTIC: Heather, we are going to put --
28 The documents that were just handed to the Board will become
29 part of the record.

30 MS. FREEMAN: Do you have a copy?

1 MR. HOPKINS: Of what?

2 MS. FREEMAN: Do you have another copy of what you
3 just gave the Board?

4 MR. HOPKINS: For who?

5 MS. FREEMAN: For me, for the record.

6 MR. HOPKINS: Oh, I am sorry. Yeah, that's fine.

7 MS. FREEMAN: Okay.

8 MR. HOPKINS: I tried making nine copies but my ink
9 ran out, so I only made seven copies.

10 As far as I know, there was four items that we
11 really, you know, the reason why we are back here that you had
12 asked that you wanted me to look at, and I did. And three of
13 them are fine, the fourth one is not. So --

14 MR. HAMILTON: So you have received the letter from
15 Lake County Building Department and intend to address all the
16 highlighted items?

17 MR. HOPKINS: Yes, sir. I have already gone over it
18 with the engineer -- excuse me -- the structural engineer that
19 designed, did the architectural work on the wall. I have
20 already talked to Redi-Rock, the people that manufacture the
21 block and -- as far as the material and everything, yes.

22 What I really wanted to find out was, I guess, the
23 idea was, if it's okay, was if we've covered all the items,
24 four items, knowing one that was not approved, which was
25 denied, was the wall, basically, the building permit through
26 Lake County. The other three had to do with the variance that
27 you had asked me about, about not grading behind the wall. And
28 if you look at the drawing, blueprint, you will see that we
29 changed it. I think the idea would be that, hopefully, we
30 could get an approval and then -- with the stipulation that,

1 once the wall is approved by the Building Department, we could
2 move forward. That was the idea. That's what I was looking
3 at.

4 MR. HAMILTON: Okay.

5 CHAIRMAN VALENTIC: One of the things that jumped out
6 from that letter and I was trying to understand myself, looking
7 at the drawings, is the line that's shown for -- as the, as
8 depicted as the wall around the pool, is that the top of the
9 wall or is that the front of the wall? Because the wall has a
10 batter. If you look at your sections, I think that was one of
11 the, kind of, comments that they had in their plan review.

12 MR. HOPKINS: One of the things is this, that when
13 the wall was designed, the Redi-Rock material, you can
14 actually -- it interlocks. It has a lip on the outside, the
15 outside wall, you know, not the inside, the outside. It has a
16 lip where the concrete patio can butt up to it so the concrete
17 patio is flush on top of the wall.

18 And I think Kirk and George, from the Engineering
19 Department, had specified that they did -- they preferred that
20 not to be that way. Well, I talked to -- I am prepared to do
21 either way. I am prepared to do it where you -- where the
22 wall, where the concrete butts up to the wall or I am prepared,
23 based on talking to Redi-Rock today, he is going to give me
24 some information to provide to the Engineering Department that
25 they do it all the time in other locations, they -- all over
26 the state of Ohio. He is ODOT approved and everything. He is
27 going to give me some information so I can present it to them
28 that, why can't we put it on the top? I think that's what you
29 had asked, right?

30 CHAIRMAN VALENTIC: Well, my question is, if I look

1 at the first, we will call it section of wall or block, is
2 what's shown on the plan, is that the -- is that that block or
3 is that the top block that's shown on the plan because the wall
4 batter is --

5 MR. HOPKINS: Which part are you looking at, sir?

6 CHAIRMAN VALENTIC: Your sections here.

7 MR. SWEENEY: Yeah, what are you referring to?

8 MR. HOPKINS: I'm not looking at that but okay.

9 CHAIRMAN VALENTIC: So in your plan, you showed where
10 the wall location is. So is that location of the wall up where
11 the wall -- the top of the wall or is that the bottom of the
12 wall because the top of the wall and the bottom of the wall are
13 not the same location? The wall slopes back. That's my
14 question.

15 MR. HOPKINS: I've got a big copy. Okay. You're
16 talking about Number 5 block, high section?

17 CHAIRMAN VALENTIC: Any of the sections.

18 MR. HOPKINS: Any of the sections.

19 CHAIRMAN VALENTIC: So when we look at the drawings,
20 because if, if this gets approved and, you know, Zoning goes
21 and does an inspection, wherever the wall is shown on your
22 drawings, that's where the wall needs to be. So my question,
23 is that the front of the face of that wall or is that the top
24 of the wall that's shown on the drawings because they can't
25 deviate from what we approve, if we approve?

26 MR. HOPKINS: So let me ask you a question.

27 CHAIRMAN VALENTIC: Sure.

28 MR. HOPKINS: Besides this, if I understand that --
29 Of course, the wall is a big part of this.

30 CHAIRMAN VALENTIC: Yeah, it's a huge part.

1 MR. HOPKINS: Do you rely on the Engineering
2 Department to provide -- I mean, if they say everything is
3 fine, whatever it is, does that meet, does that meet your
4 standards?

5 CHAIRMAN VALENTIC: Yes. But that's not my question,
6 but yes.

7 MR. HOPKINS: Okay. So to answer your question,
8 since I have a big copy and I don't have a small copy, I am
9 going to bring this up to you. I want to make sure I am
10 pointing to the same thing. Are you talking about right here?

11 CHAIRMAN VALENTIC: Yes.

12 MR. HOPKINS: So that's the lip on the outside. This
13 is the back. This is back towards the creek.

14 CHAIRMAN VALENTIC: Yes.

15 MR. HOPKINS: This is the ground, that's what this
16 is. The concrete slab or the patio goes up to there.

17 CHAIRMAN VALENTIC: Correct. But what, what -- Where
18 is it?

19 MR. HAMILTON: There is a dimension to the wall that
20 is fixed. And the question is, is that the base of the wall or
21 is that the top of the wall on the, on the site plan?

22 MR. HOPKINS: That's the top of the wall.

23 MR. HAMILTON: Okay.

24 CHAIRMAN VALENTIC: Okay. That's --

25 MR. HOPKINS: Is that what you're asking?

26 CHAIRMAN VALENTIC: Yeah.

27 MR. HOPKINS: Oh, I am sorry. Yeah, that's the top
28 of the wall.

29 CHAIRMAN VALENTIC: That's the top of the wall. So
30 the base of the wall is --

1 MR. SWEENEY: Juts out further.

2 CHAIRMAN VALENTIC: -- some, some distance further
3 than that, what's shown to know the site plan?

4 MR. HOPKINS: You mean the red, the blocks on the
5 bottom?

6 CHAIRMAN VALENTIC: Yeah, uh-huh.

7 MR. HOPKINS: Yes.

8 CHAIRMAN VALENTIC: Okay. So that's the actual
9 dimension we're approving.

10 MR. HOPKINS: Right.

11 CHAIRMAN VALENTIC: You understand?

12 MR. HOPKINS: Yes.

13 CHAIRMAN VALENTIC: Anything in that area, any
14 disturbance, that's what your variance is for.

15 MR. HOPKINS: So you are approving the bottom part,
16 right? Is that what you are saying?

17 CHAIRMAN VALENTIC: Right. And we don't have that
18 dimension on here. We have the dimension to the top of the
19 wall.

20 MR. SWEENEY: How much is he offset?

21 CHAIRMAN VALENTIC: I don't know. We talked about --

22 MR. HOPKINS: Well, you know what? Some of it, I can
23 tell you. On the site plan, it's 57 and a half feet. That's
24 what it specifies; does it not?

25 CHAIRMAN VALENTIC: Yes.

26 MR. HOPKINS: That's the spot. I mean, that's what
27 we're looking at is 57 and a half feet. So I want to tell you
28 that that 57 and a half -- So what you are, basically, asking
29 me is, is that 57 and a half feet to the top or to the bottom
30 red part? That's what you are asking me?

1 CHAIRMAN VALENTIC: Right.

2 MR. SWEENEY: I don't know what the pitch is.

3 MR. HOPKINS: Sir, your question is the 57 and a
4 half.

5 MR. CAMPOLA: They need that on their sheet.

6 MR. HOPKINS: On that?

7 MR. CAMPOLA: That's the line in the sand that you
8 are going by.

9 MR. HOPKINS: That's the line where it says 57 and a
10 half feet from the, from the high point of the creek to the --

11 MR. CAMPOLA: The difference is right here.

12 MR. HOPKINS: -- back of the wall.

13 MR. CAMPOLA: From the top to the bottom as far as
14 variance, see right here. What is that one? It says right
15 here. You're talking maybe -- See the curve here? Do you see?

16 MR. HOPKINS: I think, let me say this. I can't give
17 you a hundred percent exact answer. I know that the, based on
18 the plan here, you're at -- Right now, the closest point of the
19 wall to the easement is 43 inches. Okay? So I only know that
20 because I went over today. So I don't know if that was, that
21 was part of what Chad had brought up about the distance.
22 That's why we changed it. So your question is, is the 57 and a
23 half feet, are you approving that or are you approving --

24 CHAIRMAN VALENTIC: Something else.

25 MR. HOPKINS: Are you approving something else? So
26 the top of the wall -- I want to tell you this, that the widest
27 part of the block is two feet, the narrowest spot is one foot.

28 MR. HAMILTON: If you add up that slope on the wall,
29 it's something less than a foot.

30 CHAIRMAN VALENTIC: Okay.

1 MR. HAMILTON: It's about 9 inches.

2 MR. CAMPOLA: That's what I am saying. Number 6 kind
3 of shows you.

4 MR. HAMILTON: Yeah. So you are saying there is,
5 between what the Building Department says about the, you know,
6 differential settlement and the frost affecting where the wall
7 will move to, that the rigged concrete patio surface should not
8 interface with the wall, and you are saying the supplier of the
9 wall does it all the time.

10 MR. HOPKINS: That's what he told me today. That's
11 exactly what he said because I told him we, that I -- I said
12 that to him. And he said he did not understand why that would
13 be that way because it actually reinforces the wall by doing
14 that. So I think that, you know, I just -- I just received
15 that letter from the Engineering Department Monday morning at
16 7:30. So I haven't done a hundred percent of all my research
17 on exactly the wall, although I am going to. I mean, I just
18 received it. So I have between then and when I came here. On
19 that letter, I pinpointed most of the items. I have talked to
20 a variety of different people. I am still -- I know I have to
21 prepare that for Dave Strichko to make sure that it's done
22 correctly.

23 CHAIRMAN VALENTIC: So remind me and -- from the last
24 time. We -- There is a lot of poor soils out there, right?
25 And you guys, when they built the house, there was a lot of
26 additional excavation. They needed to bring in soils and get
27 it all to work. Is that taken into account with this wall
28 construction then, that you are going to get into those poor
29 soils, or have all the soils already been replaced in this area
30 for this wall?

1 MR. HOPKINS: What we're going to do is we're going
2 to use premium backfill. We're going to remove -- for the
3 pool. For the pool, we are going to remove the soil that's
4 there and go down to virgin ground, which I was -- I talked to
5 the builder yesterday and he told me it's 54 inches. So 54
6 inches down is, basically, soil that's been replaced, been put
7 there. And we're going to use premium backfill, and I am going
8 to provide that for the Engineering Department. We use Number
9 10 limestone screenings for it.

10 CHAIRMAN VALENTIC: So where this wall is at, so the
11 existing ground, you are going to dig an additional 54 inches
12 down and then come back and fill it with good soil.

13 MR. HOPKINS: Where the pool is going.

14 CHAIRMAN VALENTIC: What about for the wall?

15 MR. HOPKINS: The wall basically is sitting already
16 on the ground, on the earth.

17 MR. CAMPOLA: It's on the ground.

18 MR. HOPKINS: It is not sitting on the soil. It's
19 not -- It's back far enough.

20 CHAIRMAN VALENTIC: Oh, so you think that soil is
21 suitable then?

22 MR. HOPKINS: Yes, yes.

23 MR. CAMPOLA: That's ground.

24 MR. HOPKINS: That's ground. Where the bottom of the
25 wall is going is ground. In front of -- Between the house and
26 the wall is where the soil is that's been brought in or moved
27 from the house when it was built. We're replacing that with
28 premium backfill when we put the pool in. And I had to provide
29 all that, the dimensions and everything, today to the
30 Engineering Department.

1 CHAIRMAN VALENTIC: And just because this was in our
2 packet, I just want to -- We're not building this wall? This
3 was just -- Why was this included, this other wall?

4 MR. HOPKINS: What part is that?

5 CHAIRMAN VALENTIC: It shows a cast-in-place.

6 MS. FREEMAN: You provided --

7 CHAIRMAN VALENTIC: Reinforced concrete wall.

8 MR. CAMPOLA: That was a concrete option.

9 MR. HOPKINS: Oh, that, no, no, no.

10 CHAIRMAN VALENTIC: That won't be built?

11 MR. HOPKINS: That's not it, no.

12 CHAIRMAN VALENTIC: Okay. I just --

13 MR. HOPKINS: That was just another option. That was
14 just another option we were looking at.

15 CHAIRMAN VALENTIC: Okay.

16 MR. HOPKINS: That was it.

17 CHAIRMAN VALENTIC: I wanted to make sure it was
18 stated that way for the record.

19 MR. HOPKINS: That is just another option.

20 CHAIRMAN VALENTIC: Okay.

21 MR. HOPKINS: We are going to use Redi-Rock. That's
22 what -- It basically states it on the bottom of the site plan
23 or the drawing. Again, I'll get -- I'm going to get all the
24 information. I mean, I know they're rather strict. I talked,
25 I have talked to George and Kirk and Dave and I know what I
26 have to do to make sure that it fits for them.

27 Did you see the -- I don't know if it's going to be
28 brought up, the items that you had asked about, about keeping
29 further away, not doing grading behind the wall, keeping
30 further away from the easement. Those are the topics that we

1 brought -- you brought up last time.

2 CHAIRMAN VALENTIC: Do you want to just run through
3 it all for the Board?

4 MR. HOPKINS: Sure. Do you want me to?

5 CHAIRMAN VALENTIC: Yeah.

6 MR. HOPKINS: Okay.

7 CHAIRMAN VALENTIC: Whatever you want to present,
8 it's up to you.

9 MR. HOPKINS: That's fine. I didn't know if you were
10 going to talk, you wanted me to, whatever. that's fine.

11 CHAIRMAN VALENTIC: I don't have --

12 MR. HOPKINS: The grading or disturbing of the
13 northeast corner behind the wall has been eliminated and noted
14 on the new site plan. It's on the new site plan that, you
15 know, on the northeast corner. We had considered moving the
16 wall back. I think I put that on my note. Since then, we've
17 changed it. We are not going to move the wall. It is going to
18 stay right where it's at. I have talked to Heather and the
19 wall is staying there. So where it says 2 feet, 8 inches, you
20 can disregard that on my typed up letter.

21 I spoke to Vince Urbanski from the Park in reference
22 to the -- I think Chad had brought up about replacing and
23 planting vegetation behind the wall. I think that's what he
24 brought up. And I talked to Vince Urbanski and he said he
25 didn't see a problem with that. We have no problem doing that.

26 Then the third thing was, you will notice on the new
27 site plan I stopped the wall from going down the southeast
28 corner by approximately 20 feet. And the grade is still there,
29 so it slopes down. It's still the yard. We don't interfere.
30 And then we're, I think, 43 inches, like I told you earlier,

1 from the easement, from the southeast corner of the wall if you
2 look at the site plan.

3 That was it. Those are, those are the three items
4 that, basically, you brought up except for the wall.

5 CHAIRMAN VALENTIC: Okay. Does anyone have any
6 questions? You guys good over here?

7 MR. HAMILTON: I am good.

8 MR. HOPKINS: Okay.

9 CHAIRMAN VALENTIC: Do you guys want to present
10 anything else?

11 MR. HOPKINS: I am pretty sure that I covered what
12 you had said, talked about last time. So other than that, I
13 don't have anything else.

14 CHAIRMAN VALENTIC: Okay. Thank you.

15 Is there anyone else speaking for or against this
16 appeal that would like to come up? Chad, do you -- Can I ask
17 Chad to come up? Chad, do you want to just maybe remind the
18 Board, just briefly, some of the stuff that we went through
19 last time in case -- or I don't know if anyone has any
20 questions for Chad. You can ask them questions.

21 MR. EDGAR: Do you me to swear?

22 CHAIRMAN VALENTIC: Yes.

23 MR. EDGAR: My name is Chad Edgar. The office
24 address is 125 East Erie Street in Painesville, Ohio, and I
25 have been sworn in.

26 CHAIRMAN VALENTIC: Thank you, sir.

27 MR. EDGAR: So, again, like Mr. Hopkins said, the
28 issues that we had brought up, our office had brought up have
29 been resolved, no grading shown east of the wall and he had
30 talked to MetroParks, apparently, about replanting some of the

1 vegetation in the remaining riparian setback. So I don't have
2 any further comment on -- that would change based on the new
3 submittal. So if you have questions, I would be happy to
4 entertain them.

5 CHAIRMAN VALENTIC: Do you guys have any questions
6 for Chad? No. Thank you, Chad.

7 I am not going to close the meeting. I am going to
8 leave the meeting open in case we need to bring anyone back up
9 but I am going to entertain a motion to approve Variance
10 Number 0117-1084.

11 MR. HAMILTON: So moved.

12 MR. DYNES: Second.

13 CHAIRMAN VALENTIC: We have -- It's been seconded.
14 It's open for discussion on the Board. No one wants to start?
15 I guess I will go.

16 MR. DYNES: You are the chairman.

17 CHAIRMAN VALENTIC: Thank you, sir. Remember that.

18 You know, I think they made an effort to try to
19 reduce the impact to the riparian setback. You know, my
20 opinion, I still feel like we have a pretty substantial impact
21 to that riparian setback. And so I think we all have to look
22 at it and decide, you know, how we feel about that but that's
23 my feeling at this point.

24 MR. DYNES: I agree with you. It's that simple.

25 CHAIRMAN VALENTIC: Nothing?

26 MR. SWEENEY: No.

27 MR. DYNES: I think whatever we do has to be -- it
28 has to bear some contingency. There has to be some -- subject
29 to further approval, obviously.

30 CHAIRMAN VALENTIC: Yeah, yeah.

1 MR. DYNES: But we're looking at the riparian
2 setback, that's what it's about.

3 CHAIRMAN VALENTIC: Yeah. Any motion forward would,
4 again, continue to include that they receive approvals from the
5 county agencies and the --

6 MR. SWEENEY: I actually have a question.

7 CHAIRMAN VALENTIC: Sure.

8 MR. SWEENEY: I am sorry. I didn't mean to
9 interrupt. Actually, for Chad --

10 CHAIRMAN VALENTIC: Chad, can you come back up?

11 MR. EDGAR: Absolutely.

12 MR. SWEENEY: With the new riparian setback
13 distances, we've seen -- Heather and I just discussed one this
14 week, another plot, another lot where the designated riparian
15 setback was 50 foot but -- Who was it? Was it the county
16 engineer or Soil and Water or it might have been Chad went out
17 and decided that the actual impact was -- of the stream bed
18 lent itself more to a 25 foot riparian setback in terms of
19 actual effect.

20 MR. EDGAR: I recall the site.

21 MR. SWEENEY: Yeah. And so I would like to compare
22 that to this creek. I haven't walked it or anything but in
23 terms -- I know it's a 75 foot designated setback and that's, I
24 mean, that's like the second largest. The next one up is a
25 river, right, like 150 foot?

26 MR. EDGAR: Correct.

27 MR. SWEENEY: I think. Is that, based upon your
28 experience with this particular creek, is that -- is it pretty
29 consistent with the 75 foot or is it less in terms of runoff,
30 average runoff?

1 MR. EDGAR: Okay. So the 75 foot comes into play if
2 it is a Category III headwater stream, which is based on the
3 habitat and the biology that's in the stream. We don't measure
4 that over every linear feet of every stream in the county. We
5 take a segment that's representative and we take that
6 measurement.

7 In the case that we brought up there where it was on
8 the map as a 75 or Category III, when I looked at it, it
9 doesn't meet those criteria. Without doing the measurements
10 but just I've been in over 1,000 of them, it didn't, you could
11 just tell it didn't meet the criteria. So I told Heather 25
12 feet was appropriate.

13 In this scenario, I did not look at the stream enough
14 to tell when I was out there. If you would like me to go back
15 out and do that, I can.

16 MR. SWEENEY: No, no, that's not necessary.

17 MR. EDGAR: But at this point in time, I wouldn't
18 feel comfortable telling you it's 25 feet or 75 feet. I didn't
19 look at it in that regard when I was out there.

20 MR. SWEENEY: Okay. But the criteria, does the
21 criteria include average runoff?

22 MR. EDGAR: No.

23 MR. SWEENEY: It doesn't? That's interesting.

24 MR. EDGAR: No.

25 MR. SWEENEY: Okay. All right. Thanks.

26 MR. EDGAR: Yeah.

27 CHAIRMAN VALENTIC: Anything?

28 MS. JARRELL: How far into the setback are we with
29 the maximum point?

30 MR. SWEENEY: Ah, twenty -- eighteen feet.

1 MS. JARRELL: Eighteen feet?

2 MR. SWEENEY: Eighteen feet.

3 CHAIRMAN VALENTIC: Yeah.

4 MR. HOPKINS: Are you talking about the difference
5 between the 57 and the 75?

6 CHAIRMAN VALENTIC: Yeah. It's an encroachment.

7 MR. HOPKINS: Seventeen and a half feet.

8 MR. SWEENEY: Seventeen and a half.

9 CHAIRMAN VALENTIC: You guys good?

10 MS. JARRELL: Uh-huh.

11 CHAIRMAN VALENTIC: Okay. Well, then, Heather, I
12 can -- Now I can close the meeting or --

13 MS. FREEMAN: Yeah. If you are going to ask --

14 MS. LANDGRAF: Close the hearing portion first.

15 CHAIRMAN VALENTIC: The public hearing portion, I can
16 close it if we don't have anything to discuss, we don't have
17 any other further questions. No one has any further questions?
18 Okay, so there's no further questions. The public hearing for
19 Variance Number 0117-1084 is now closed to the public. I am
20 going to, so just -- I am going to put a motion to vote and the
21 motion will add that they get engineering approval from all the
22 county offices, Building, Engineering, that the new revised
23 plan that was submitted today, that it's constructed as per
24 this plan, which also includes the Redi-Rock wall that they
25 provided. Okay?

26 So the question is on the approval of Variance
27 Number 0117-1084, contingent that they received county approval
28 from the Building Department, Engineering Department, Soil and
29 Water and anyone else that's required for approval to construct
30 a pool and wall, and that the pool wall is constructed to the

1 dimensions that are shown in the attached plans and drawings.

2 MS. LANDGRAF: Let me just put a caveat to that,
3 provided that they comply with the county's recommendations or
4 requirements.

5 CHAIRMAN VALENTIC: Yes.

6 MS. LANDGRAF: If this has to be altered at all based
7 on county requirements, you want that to be able to happen,
8 too.

9 CHAIRMAN VALENTIC: Yes. But what if those county
10 requirements impact their variance need?

11 MS. LANDGRAF: So your approval would be, your
12 approval would be subject to, obviously, the approval of the
13 county Building Department and the county Engineer and any
14 other county agency that's required, right?

15 CHAIRMAN VALENTIC: Right.

16 MS. LANDGRAF: And that they build it in accordance
17 with the plan submitted with their application as of today.

18 CHAIRMAN VALENTIC: Okay.

19 MS. LANDGRAF: However, should those plans have to be
20 altered once those county agencies look at them again -- Have
21 these already been submitted to the county?

22 CHAIRMAN VALENTIC: Yes. And it's likely --

23 MS. LANDGRAF: So it's likely they are going to have
24 to be changed based on his email, right?

25 CHAIRMAN VALENTIC: Right.

26 MS. LANDGRAF: So provided that they follow these
27 plans and still get approval from the county agencies, there
28 might be a little bit of a difference from what we have
29 tonight.

30 CHAIRMAN VALENTIC: And if there is a difference, do

1 they need to come back and get approval from us?

2 MS. LANDGRAF: No, just as long as they adhere to
3 whatever the county recommends.

4 CHAIRMAN VALENTIC: Okay.

5 MS. FREEMAN: Can I say something, too?

6 MS. LANDGRAF: Sure.

7 MS. FREEMAN: Although that wouldn't allow them to
8 encroach further into the riparian setback, right?

9 MS. LANDGRAF: You could put, you could put that in
10 there.

11 CHAIRMAN VALENTIC: Yes.

12 MS. FREEMAN: I don't think you want to grant them
13 blanket --

14 CHAIRMAN VALENTIC: Yeah, I don't think we want to
15 even approach any further. We already have a significant
16 impact on it. I don't think we want --

17 MS. LANDGRAF: Right. You would be granting the
18 variance to the 17 and a half foot --

19 CHAIRMAN VALENTIC: Okay.

20 MS. LANDGRAF: -- impact into the riparian setback,
21 correct?

22 MS. FREEMAN: Is that what we're doing?

23 MR. DYNES: Correct, without any further
24 encroachment.

25 MS. LANDGRAF: Subject to approval from --

26 MR. DYNES: Right.

27 MS. LANDGRAF: -- the other county agencies.

28 CHAIRMAN VALENTIC: Okay.

29 MS. FREEMAN: So you have got -- Part of the Zoning
30 Resolution also requires construction fencing to be shown

1 making sure that there is no equipment back there disturbing
2 any of the area outside of where they may get the variance. So
3 you're saying that you're not going to disturb anything beyond
4 the wall, then we need construction fencing placed there.

5 CHAIRMAN VALENTIC: Can you come back up, please, or
6 somebody?

7 MS. LANDGRAF: Well, they're going to have to adhere
8 to the Zoning Resolution.

9 MS. FREEMAN: Correct.

10 MS. LANDGRAF: This is only for the variance.

11 MS. FREEMAN: Right.

12 MS. LANDGRAF: So that's separate and apart.

13 MS. FREEMAN: Okay.

14 MS. LANDGRAF: They still have to comply with every
15 other aspect. This is only to go into the riparian setback.

16 MS. FREEMAN: Okay.

17 MS. LANDGRAF: So I don't know that we need to reopen
18 again as long as, I mean, everybody knows they have to adhere
19 to the rest of the Zoning Resolution.

20 MS. FREEMAN: Okay. I just wanted everyone to know
21 that so when they come back and get the permit from us, the
22 site plan is going to have to show construction fencing beyond
23 the wall.

24 CHAIRMAN VALENTIC: Yeah.

25 MS. JARRELL: That's not a part of the variance.

26 CHAIRMAN VALENTIC: No. That's part of their
27 approval process.

28 MS. FREEMAN: It is part of the zoning permit
29 approval process. I just wanted -- just so the Applicant knows
30 and even you are aware that they are not going to be able to do

1 anything beyond the wall based on the site plan.

2 MR. HOPKINS: Right.

3 CHAIRMAN VALENTIC: Okay.

4 MS. LANDGRAF: So do you believe they're going to
5 need another variance to put the construction fencing up to
6 comply with the -- is that --

7 MS. FREEMAN: No. As long -- I mean, if we give them
8 the variance to right where the wall is, then the construction
9 fencing goes right there.

10 MS. LANDGRAF: Right on where the wall is.

11 MS. FREEMAN: Right where the wall is supposed to be
12 constructed, yeah.

13 MS. LANDGRAF: Can you guys comply with that?

14 MR. CAMPOLA: I have a question though. If I, if I
15 am --

16 CHAIRMAN VALENTIC: Well, hold on. Should I have him
17 come back up and reopen this or -- I just want to follow
18 procedure.

19 MS. LANDGRAF: It can't change your motion because
20 you've already made your motion.

21 MR. DYNES: I think the question that he is going to
22 have is going to go outside the purview of what we're seeking
23 to do right now. I think we're getting a little too far afield
24 again. So I think we can vote on it as it is. Those are
25 questions he's going to have for the Building Department or
26 Heather as this moves forward.

27 MS. LANDGRAF: That's right. The only thing in front
28 of you is the variance for the riparian setback.

29 MR. DYNES: Correct. We are going -- yeah.

30 CHAIRMAN VALENTIC: Okay.

1 MS. JARRELL: If we approved 18 feet, they can put
2 the fence in and have the room, no problem, right?

3 MS. FREEMAN: Yeah. But I just want to make sure it
4 really is 18 feet.

5 CHAIRMAN VALENTIC: It's 17 and a half.

6 MS. FREEMAN: And at what point are we saying this?
7 I mean, based on the southeast corner, you're saying from
8 there, 18 feet?

9 MR. HAMILTON: That's the shortest dimension, yeah.

10 CHAIRMAN VALENTIC: I see, Heather, the 18 feet, I
11 think he means it's supposed to be 75 feet from this, the bend
12 in the stream. That's the furthest setback and they're coming
13 in --

14 MS. FREEMAN: Their measurement is from the wall --
15 or from the, from the patio.

16 CHAIRMAN VALENTIC: Yeah. So that's, the 17 and a
17 half feet, is this dimension right in here.

18 MS. JARRELL: Which?

19 CHAIRMAN VALENTIC: The difference.

20 MR. HOPKINS: The 17 and a half feet is the
21 difference between the 57 and a half and the 75. That's
22 basically what it is. It's from the back side of the wall.

23 MS. JARRELL: So it's what you said.

24 CHAIRMAN VALENTIC: Yeah.

25 MS. FREEMAN: So 75 minus --

26 MR. HOPKINS: Fifty-seven and a half.

27 CHAIRMAN VALENTIC: Yeah, 57 and a half.

28 MS. FREEMAN: So make it clear in your motion again
29 how many feet you are giving the variance when you are ready at
30 that point.

1 CHAIRMAN VALENTIC: Should we give them 18 instead of
2 the 17 and a half?

3 MS. FREEMAN: That's up to you guys.

4 MR. DYNES: Something or --

5 MS. JARRELL: Give them 6 inches to put their fence
6 up so we don't have to come back and do this again.

7 CHAIRMAN VALENTIC: Okay. You guys are okay with
8 that? Okay. I will try to say everything. We are going --
9 The question is on the approval of Variance Appeal Number 0177
10 -- 0117-1084, contingent on the approval from the county
11 Building, Engineering, Soil and Water and any other permits
12 that are required for the approve -- design and construction of
13 the wall and the pool as shown on the drawings, with the
14 modification that the var -- the wall will be 18 feet less.

15 MS. LANDGRAF: That the variance will be for 18 feet
16 to allow for the installation of construction fencing.

17 CHAIRMAN VALENTIC: Fencing only in that area.

18 MS. LANDGRAF: Only. And provided that the wall does
19 not exceed the 17 and a half feet submitted in their
20 application, not to take it away from you. Sorry.

21 CHAIRMAN VALENTIC: No, no, I am happy that you are
22 taking --

23 MS. JARRELL: What she said.

24 CHAIRMAN VALENTIC: What she said is added to it.

25 MS. JARRELL: Can we do that?

26 CHAIRMAN VALENTIC: Is there anything else that I am
27 missing?

28 MR. DYNES: No. The only I thing I would add, as you
29 stated, any and all county and then you said Engineering,
30 county Building, Engineering, Soil and Water, any and all state

1 and federal and/or county permits that may or may not be
2 required.

3 CHAIRMAN VALENTIC: All that approval of variances
4 contingent on getting all those approvals from the state,
5 county.

6 MR. DYNES: And any other governmental authority that
7 may have such ability to require same.

8 CHAIRMAN VALENTIC: And that if -- Is there anything
9 else they have to say? Do they have to come back if they can't
10 meet those requirements?

11 MS. LANDGRAF: No. They have to comply with all
12 other aspects of the --

13 CHAIRMAN VALENTIC: Okay. So they have to comply
14 with that. All right. A yes vote is for approval of the
15 variance with those items that we noted, a no vote denies the
16 variance. Heather, please call for the vote.

17 MS. FREEMAN: Ms. Jarrell?

18 MS. JARRELL: Yes.

19 MS. FREEMAN: Mr. Dynes?

20 MR. DYNES: Yes.

21 MS. FREEMAN: Mr. Sweeney?

22 MR. SWEENEY: Yes.

23 MS. FREEMAN: Mr. Valentic?

24 CHAIRMAN VALENTIC: No.

25 MS. FREEMAN: Mr. Hamilton?

26 MR. HAMILTON: Yes.

27 CHAIRMAN VALENTIC: Your appeal has been approved.

28 Okay. Next on our agenda is Appeal Number 0217-1086.
29 Mr. Kyle Rhodes is requesting a variance for the property
30 located at 8001 Butler Hill Drive and being Permanent Parcel

1 Number 08-A-023-F-00-026-0 to locate an accessory building with
2 an 8 foot left side rear yard clearance in lieu of the minimum
3 10 foot required, as set forth in Section 15.04 (B) and Table
4 15.04-1 of the Zoning Resolution.

5 Mr. Rhodes, oh, there you are. All right. Please
6 state your name and the address and confirm that you've been
7 sworn in.

8 MR. RHODES: Sure. My name is Kyle Rhodes. I live
9 at 8001 Butler Hill Drive in Concord, Ohio 44077, and I have
10 been sworn in.

11 CHAIRMAN VALENTIC: Thank you. The show is yours.

12 MR. RHODES: Okay. At this point, the background of
13 this is that, in August of 2016, we installed a shed onto the
14 property in the back corner. Upon inspection in early January
15 or mid January, the Zoning Inspector's Office measured the shed
16 as only being 8 feet from the northern border of the property
17 rather than the 10 feet that was required.

18 At this point, the shed was, when it was installed,
19 was built in place and then leveled and elevated where it was
20 built upon the posts that are there now to level it. Moving
21 the shed at this point would actually be a hardship based on
22 the location. So we are asking for a variance based on that,
23 yes, we are less than the 10 feet. We're at 8 feet from the
24 side property line. We are 10 feet from the back property
25 line. There is no competing structures near it. It is open
26 woods on either side. The storage shed is in character with
27 the neighborhood. It matches the style of construction and
28 color of the, of the primary house. It should have no impact
29 on the delivery of any government services. We were -- We made
30 sure we were in accordance with the homeowner association. We

1 forgot the Township. And for that, I apologize.

2 So at this point, we are looking for that variance to
3 preserve the spirit and intent of the Zoning Resolution and we
4 believe that substantial justice shall be done by granting the
5 variance. Got it all out.

6 CHAIRMAN VALENTIC: Have you got any questions,
7 Blair?

8 MR. HAMILTON: It's the same story.

9 MS. JARRELL: He is going to administer the flogging,
10 right?

11 MR. HAMILTON: I just wish that the homeowners would
12 be aware of the zoning before they forge ahead and place these
13 sheds outside the zoning permitted areas.

14 MR. RHODES: Yep. I will in the future.

15 CHAIRMAN VALENTIC: Did you measure off of the
16 property line when you first located it or did you just, kind
17 of, sight it out there rather than -- and that's where you guys
18 put it?

19 MR. RHODES: We measured from the back side and we
20 thought we were close to the edge on the side and I thought --
21 I didn't check the zoning. I thought it was 9 feet when I
22 measured off but that was an error.

23 MS. JARRELL: No permit? I mean, obviously, no
24 permitting.

25 MR. RHODES: No.

26 MS. JARRELL: Just went, okay. And just so it's
27 clear, this is not your hardship. I mean, it's a hardship to
28 you now but that's not a hardship per the Zoning Resolution.

29 MR. RHODES: Correct.

30 CHAIRMAN VALENTIC: If that was like -- We could tell

1 you to move the shed the two feet and that's not a hardship.

2 Okay. I don't have any more questions. Brandon is
3 good?

4 MR. DYNES: I echo everything you said. Is it a
5 concrete slab?

6 MR. RHODES: It is not a concrete slab.

7 CHAIRMAN VALENTIC: All right. You good?

8 MR. SWEENEY: Do you have a neighbor to the north?

9 MR. RHODES: We do have a neighbor to the north.
10 They are leaving that area undeveloped per their own admission.

11 MR. SWEENEY: Are they aware that you are encroaching
12 on a setback that's intended to benefit them?

13 MR. RHODES: By the letter that was sent out to the
14 neighbors.

15 MR. SWEENEY: Okay. So they're aware of it?

16 MR. RHODES: Yes.

17 MR. SWEENEY: They don't have any problem with it?

18 MR. RHODES: They have not indicated so.

19 MS. JARRELL: They are not here.

20 CHAIRMAN VALENTIC: Yeah, the notice went out. You
21 good?

22 MR. SWEENEY: Okay. Thank you.

23 CHAIRMAN VALENTIC: You can be seated.

24 MR. RHODES: Thank you.

25 CHAIRMAN VALENTIC: Anyone here speaking against this
26 appeal or for the appeal? Okay. If there is no further
27 questions, the public hearing for Variance Number 0217-1086 is
28 now closed to the public. I will entertain a motion to approve
29 Variance Number 0217-1086.

30 MR. DYNES: So moved.

1 MR. SWEENEY: Second.

2 CHAIRMAN VALENTIC: Discussion on the Board?

3 Nothing?

4 MR. DYNES: It's the same old story, the same old

5 slippery slope. But I don't know. I guess that's why we are

6 also here, right?

7 CHAIRMAN VALENTIC: Right. We wouldn't have a job if

8 it wasn't.

9 MR. DYNES: It's the big bucks.

10 CHAIRMAN VALENTIC: All right. The question is on

11 the approval of Variance Number 0217-1086. A yes vote is for

12 the approval of the variance, a no vote denies it. Heather,

13 please call the vote.

14 MS. FREEMAN: Mr. Hamilton?

15 MR. HAMILTON: Yes.

16 MS. FREEMAN: Mr. Sweeney?

17 MR. SWEENEY: Yes.

18 MS. FREEMAN: Mr. Dynes?

19 MR. DYNES: Yes.

20 MS. FREEMAN: Ms. Jarrell?

21 MS. JARRELL: I guess, yes.

22 MR. HAMILTON: Is that a yes?

23 CHAIRMAN VALENTIC: Is that a vote?

24 MS. JARRELL: Yes. I am sorry, a little sarcastic.

25 MS. FREEMAN: Mr. Valentic?

26 CHAIRMAN VALENTIC: Yes. The yeses have it. You've

27 been approved. If you end up leaving, just see Heather before

28 you go.

29 Next on the agenda is the minutes from February 8,

30 2017. I call for a motion to approve the minutes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

MR. HAMILTON: So moved.

MS. JARRELL: Second.

MR. DYNES: All right. Well, I will abstain but I will, in the interest of preserving the record and its clarity -- although I hate to do this to Mindy because I find her to be the most competent court reporter in the area.

CHAIRMAN VALENTIC: For the record.

MR. DYNES: And one who I employ myself at times in legal proceedings. But nonetheless, on page 82, line 8, I believe Ms. Jarrell means to say "the forth item" and not "the fourth them." So in light of the fact that this prior variance had so much consternation and troubles to it, I think we want to just preserve the record and its clarity and I will make that statement, although I abstain from the approval of those minutes because I wasn't here.

CHAIRMAN VALENTIC: So noted.

MS. JARRELL: Thank you, Brandon.

MR. HAMILTON: For the record.

CHAIRMAN VALENTIC: For the record. All right. So the question is approval of the minutes based on Brandon's revisions for February 8, 2017. A yes vote approves the minutes, a no vote does not. Heather, please call -- Oh, please just vote.

(Four aye votes, no nay votes, one abstention.)

CHAIRMAN VALENTIC: Thank you. The minutes for February 8, 2017, have been approved. The meeting for March -- the Board of Zoning Appeals meeting for March 8, 2017, is now closed.

(Whereupon, the meeting was adjourned at 7:44 p.m.)

1 STATE OF OHIO)
2 COUNTY OF CUYAHOGA)

CERTIFICATE

3 I, Melinda A. Melton, Registered Professional
4 Reporter, a notary public within and for the State of Ohio,
5 duly commissioned and qualified, do hereby certify that, to
6 the best of my ability, the foregoing proceeding was reduced
7 by me to stenotype shorthand, subsequently transcribed into
8 typewritten manuscript; and that the foregoing is a true and
9 accurate transcript of said proceedings so taken as
10 aforesaid.

11 I do further certify that this proceeding took
12 place at the time and place as specified in the foregoing
13 caption and was completed without adjournment.

14 I do further certify that I am not a friend,
15 relative, or counsel for any party or otherwise interested
16 in the outcome of these proceedings.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 affixed my seal of office this 28th day of March 2017.

19
20
21
22
23
24
25
26
27
28
29
30

Melinda A. Melton
Registered Professional Reporter

Notary Public within and for the
State of Ohio

My Commission Expires:
February 4, 2018